

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

IN RE NEWSDAY LITIGATION

STATUS REPORT
AND ORDER
08-MISC-96 (JBW)

-----X

GOLD, S., *United States Magistrate Judge*:

This miscellaneous action concerns restitution issues raised in various related criminal cases. Sentencing dates in those cases have been adjourned pending resolution of the restitution issues. By Order dated February 19, 2008, Senior United States District Judge Weinstein directed that I file a status report on the restitution issues by today. Docket Entry 2.

During a conference held on January 29, 2008, I asked the government to present the court with its evaluation of whether the payments made by Newsday and Hoy to the victims of defendants' crimes reasonably approximate the losses those victims sustained. On February 12, 2008, the government submitted a letter stating that it would be assisted by the Economic Analysis Group ("EAG"), a unit within the Antitrust Division of the Department of Justice, in making this evaluation, but could not at that time propose a schedule for completion of the EAG's work.

By letter dated March 7, 2008, the government provided an updated report on its progress, but it has still not provided a schedule for submitting its evaluation to the court. In its most recent letter, the government reports the following:

- 1) The EAG is awaiting production of documents from Newsday. The government expects that the documents will be produced within "the next several weeks," and that EAG's evaluation will be completed "shortly thereafter."
- 2) The case of *Arnold Chevrolet LLC et al v. Tribune Company*, 04-Civ-3097, in which certain advertisers sued for damages incurred in part as a result of the criminal activity at issue in these cases, has been settled. Although counsel for plaintiffs in that action participated in the conference on January 29, 2008, and indicated that they would comment on the government's position, they have now declined to provide any information to the government in connection with its evaluation of the payments made by Newsday and Hoy.

The only other litigation brought by victims of the crimes at issue in these proceedings of which this court is aware is *Crab House of Douglaston Inc. et al v. Tribune Company*, 04-Civ-558. A motion to dismiss the Fourth Amended Complaint in that action is pending. Counsel for plaintiffs in that action submitted a letter in November, 2007, seeking the opportunity to present information to the court in these proceedings in connection with determining an appropriate restitution amount. *See* 04-Civ-558, Docket Entry 155. However, counsel for the *Crab House* plaintiffs has not communicated with the court since that time, participated in the proceedings

held on January 19, 2008, or presented any information in connection with determining a restitution amount.¹ No other claims for restitution have been submitted to the court.

For these reasons, it now appears likely that the government's evaluation will be submitted without challenge or comment by victims. Nevertheless, some time for comment should be provided for victims, the defendants, and others who may have information. I therefore propose the following schedule:

- 1) The government shall submit its evaluation by April 21, 2008. The government's submission shall be filed on the public docket sheet of this miscellaneous action, where it may be accessed by interested parties at the courthouse or via the internet.
- 2) Any comments from alleged victims, the defendants or other interested parties shall be submitted by May 12, 2008. Comments may be submitted to the Clerk of the Court, United States Courthouse, 225 Cadman Plaza East, Brooklyn New York, 11201, to the attention of United States Magistrate Judge Steven M. Gold.
- 3) The government shall submit any response by May 26, 2008. As with its original submission, the government's response shall be publicly filed on the docket sheet of this action.
- 4) This court will issue a report on the submissions made by the government, and any further submissions by victims or defendants, by June 23, 2008.
- 5) Sentencing dates should be adjourned in light of the schedule set forth above.

The government shall provide copies of this Status Report to any counsel for defendants, counsel for alleged victims, alleged victims and other individuals who have corresponded with the court with respect to restitution in these cases, but who have not appeared in this miscellaneous action and are therefore not automatically notified by e-mail of filings in it. The government shall also post this Status Report on the web site it maintains in connection with this action. **Finally, the government shall publish a copy of this Status Report and Order in at least one weekday edition of Newsday during the week of March 24, 2008.**

_____/s/_____
STEVEN M. GOLD
United States Magistrate Judge

Brooklyn, New York
March 19, 2008

¹Other individuals have also submitted correspondence to the court in connection with these proceedings, but none appears to be a victim of the underlying criminal conduct.